

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

Index #

-----X
WILSON ROLON

Plaintiff

Against

VERIFIED
COMPLAINT

THE CITY OF NEW YORK, P.O. HINES (shield # unknown)
P.O. "JOHN DOE" #1 (Shield # Unknown),
P.O. "JOHN DOE" #2 (Shield # Unknown),
P.O. "JOHN DOE" #3 (Shield # Unknown)
(first and last names being fictitious
and unknown, persons intended being police officers and/or
personnel who were involved in subject incident)

Defendants
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Plaintiffs, **WILSON ROLON** by his attorneys, BURNS & HARRIS, as and for his Complaint herein, alleges upon information and belief, that on May 23, 2010 in the vicinity of East 169th Street and Jerome Avenue, in the County of Bronx, City and State of New York (unless otherwise specified):

1. At all times relevant hereto, Defendant **CITY OF NEW YORK** is a municipality existing under and by virtue of the laws of the State of New York.
2. At all times relevant hereto, defendant **CITY OF NEW YORK** operated, maintained, managed, supervised and controlled a police department as part of and in conjunction with its municipal functions.
3. At all times relevant hereto, Defendant **P.O. HINES (Shield # unknown)**, is employed as a police officer by the Police Department of the City of New York.
4. At all times relevant hereto, defendant **P.O. HINES (SHIELD #unknown)** was, upon information and belief, assigned to the 44th precinct located at 1278 Sedgwick Avenue, County of Bronx, City and State of New York.

5. At all times relevant hereto, Defendant "**P.O. JOHN DOE #1**", is employed as a police officer by the Police Department of the City of New York.

6. At all times relevant hereto, defendant "**P.O. JOHN DOE #1**" was, upon information and belief, assigned to the 44th precinct located at 1278 Sedgwick Avenue, County of Bronx, City and State of New York.

7. At all times relevant hereto, Defendant "**P.O. JOHN DOE #2**", is employed as a police officer by the Police Department of the City of New York.

8. At all times relevant hereto, defendant "**P.O. JOHN DOE #2**" was, upon information and belief, assigned to the 44th precinct located at 1278 Sedgwick Avenue, County of Bronx, City and State of New York.

9. At all times relevant hereto, Defendant "**P.O. JOHN DOE #3**", is employed as a police officer by the Police Department of the City of New York.

10. At all times relevant hereto, defendant "**P.O. JOHN DOE #3**" was, upon information and belief, assigned to the 44th precinct located at 1278 Sedgwick Avenue, County of Bronx, City and State of New York.

11. At all times relevant hereto, the individual defendants were acting in the course of their employment by the CITY OF NEW YORK, and POLICE DEPARTMENT OF THE CITY OF NEW YORK.

12. That all of the conditions precedent to the commencement of an action against the defendant **CITY OF NEW YORK** have been met in that a Notice of Claim was filed with the **CITY OF NEW YORK** on July 8 2010 on behalf of plaintiff WILSON ROLON and within 90 days of the accrual of this cause of action; more than thirty (30) days have elapsed since the presentation of the Notice of Claim, and the claim remains

unadjusted by the **CITY OF NEW YORK**. This action has been commenced within one (1) year and ninety days from the accrual of this cause of action, and **THE CITY OF NEW YORK** conducted a statutory hearing of the plaintiff **WILSON ROLON** on September 15 2010.

**FIRST CAUSE OF ACTION:
(POLICY OF NON-FEASANCE IN THE
PROTECTION OF PLAINTIFF'S CIVIL RIGHTS)**

13. At all times relevant hereto, defendant **CITY OF NEW YORK** employed the Defendant **P.O. HINES** as a police officer in the New York City Police Department.

14. Upon information and belief, defendant **P.O. HINES** is a graduate of The Police Academy of the City of New York.

15. At all times relevant hereto, defendant **CITY OF NEW YORK** employed the Defendant "**P.O. JOHN DOE #1**", as a police officer in the New York City Police Department.

16. Upon information and belief, defendant "**P.O. JOHN DOE #1**" is a graduate of The Police Academy of the City of New York.

17. At all times relevant hereto, defendant **CITY OF NEW YORK** employed the Defendant "**P.O. JOHN DOE #2**", as a police officer in the New York City Police Department.

18. Upon information and belief, defendant "**P.O. JOHN DOE #2**" is a graduate of The Police Academy of the City of New York.

19. At all times relevant hereto, defendant **CITY OF NEW YORK** employed the Defendant "**P.O. JOHN DOE #3**", as a police officer in the New York City Police Department.

20. Upon information and belief, defendant "**P.O. JOHN DOE #3**" is a graduate of The Police Academy of the City of New York.

21. At all times relevant hereto, defendant **CITY OF NEW YORK** had the duty to competently and sufficiently hire, train and retain within the Police Academy and at the Command, Precinct and Patrol levels, the defendant Officers in the protection of the Constitutional rights of the plaintiff under the Fourteenth Amendment to the United States Constitution.

22. In addition, the defendant **CITY OF NEW YORK**, had the duty to competently and sufficiently hire, train and retain within the Police Academy and at the Command, Precinct and Patrol levels, the defendant officers to conform their conduct to a standard, established by law, for the protection of citizens, such as plaintiff, against unreasonable risk of harm by conducting themselves in such a manner as not to intentionally, wantonly, and/or negligently inflict injuries to citizens such as the plaintiff herein.

23. Each and all of the acts of the defendants alleged herein were done by the defendants, their agents, servants and/or employees, and each of them, not as individuals, but under the color and pretense of the statutes, ordinances, regulations, customs and usages of the State of New York, the City of New York and the County of Bronx, and under the authority of their office as police officers of said state, city and county.

24. The defendant **CITY OF NEW YORK** failed to competently and sufficiently hire, train and retain the defendant officers to conform and conduct themselves to a statute established by law for the protection of citizens, such as plaintiff, against unreasonable risk of harm by conducting themselves in such a manner as not to intentionally, wantonly and/or negligently inflict injuries to citizens such as the plaintiff herein.

25. That on or about May 23, 2010, and prior thereto, the **CITY OF NEW YORK**, in violation of 42 U.S.C. §1983 caused the plaintiff to be injured and damaged in failing to competently hire, train and retain police officers, including but not limited to the defendant officers to conform and conduct themselves to a statute established by law for the protection of citizens, such as plaintiff, against unreasonable risk of harm by conducting themselves in such a manner as not to intentionally, wantonly and/or negligently inflict injuries to citizens such as plaintiffs herein.

26. On or about May 23, 2010, the plaintiff, **WILSON ROLON**, was lawfully and properly present in the vicinity of East 169th Street & Jerome Avenue, County of Bronx, City and State of New York.

27. On or about May 23, 2010, the defendant **P.O. HINES** was present and on duty in the vicinity of East 169th Street & Jerome Avenue, County of Bronx, City and State of New York, as part of his regular and official employment as a police officer for the defendant, **THE CITY OF NEW YORK**.

28. On or about May 23, 2010, the defendant **P.O. "P.O. JOHN DOE #1"** was present and on duty in the vicinity of East 169th Street & Jerome Avenue, County of Bronx, City and State of New York, as part of his regular and official employment as a police officer for the defendant, **THE CITY OF NEW YORK**.

29. On or about May 23, 2010, the defendant **P.O. "P.O. JOHN DOE #2"** was present and on duty in the vicinity of East 169th Street & Jerome Avenue, County of Bronx, City and State of New York, as part of his regular and official employment as a police officer for the defendant, **THE CITY OF NEW YORK**.

30. On or about May 23, 2010, the defendant **P.O. "P.O. JOHN DOE #3"** was present and on duty in the vicinity of East 169th Street & Jerome Avenue, County of Bronx, City and State of New York, as part of his regular and official employment as a police officer for the defendant, **THE CITY OF NEW YORK**.

31. Commencing on May 23, 2010 at approximately 3:50 a.m. the individual defendant officers, assaulted and battered and wrongfully and falsely arrested, detained and confined the plaintiff **WILSON ROLON**, without probable or just cause, grounds or provocation.

32. Following said assault, battery and arrest, the defendant officers wrongfully detained and arrested the plaintiff **WILSON ROLON** at the 44th Precinct and imprisoned him.

33. Immediately thereafter, aforementioned defendants, their agents, servants and employees falsely arrested and imprisoned the plaintiff and deprived him of his rights and liberties as set forth in the Constitutions of the United States and of the State of New York, unreasonably handcuffed him too tightly and threatened the plaintiff with the use of physical force.

34. Following said arrest, the defendant officers wrongfully and falsely accused and charged the plaintiff **WILSON ROLON** with Violations of Penal Law of the State of New York.

35. The false arrest and imprisonment of the plaintiff **WILSON ROLON** was caused by all of the defendants, their servants, agents and/or employees, without warrant, authority of law, or any reasonable cause or belief that he was, in fact, guilty of the crimes with which he was charged.

36. As a result of the aforesaid arrest, plaintiff **WILSON ROLON** was forcibly hand-cuffed, detained, transported and treated as a common criminal and incarcerated and imprisoned at various facilities owned, operated, maintained and controlled by the defendant **CITY OF NEW YORK** for approximately fifty-six (56) hours and thereby deprived of his rights, liberties and freedoms under color of State Law in violation of 42 U.S.C. §1983.

37. As a further result of the deprivation of plaintiff **WILSON ROLON** right to be free from the deprivation of rights guaranteed to him by the Fourteenth Amendment to

the United States Constitution, he was caused to suffer injury and damage both mentally and physically, severe nervous shock and emotional distress and illness.

38. On or about May 23, 2010, in violation of the rights, privileges and immunities guaranteed to him under the Fourteenth Amendment to the United States Constitution and under color of State law, the defendant officers and each of them acting individually and in concert, in violation of 42 U.S.C. Section 1983, while on duty, detained the plaintiff, even though the defendants knew or should have known that the plaintiff was wholly innocent.

39. That all of the actions of the defendants, their agents, servants and/or employees were committed with the intention to cause bodily and mental injury to the plaintiff; to arrest, restrain and imprison the plaintiff without his consent; that the plaintiff was at all times conscious of his arrest, did not consent to the assault, battery, and false arrest, and the assault, false arrest and imprisonment were not otherwise privileged.

40. The assault, battery, arrest and imprisonment of the plaintiff was negligent, reckless and intentional and were not justified by probable cause or other legal privilege and the defendants, their agents, servants and/or employees acting under the color of statute, ordinances, regulations, customs and usages of the State, City and County of New York, and under the authority of their office as police officers for the CITY OF NEW YORK, falsely charged the plaintiff with Violations of the Penal Law, although the defendants, acting in such capacity, knew that such charges were false.

41. That the defendants, their agents, servants and employees failed to adequately and properly hire, retain, train, supervise, discipline or in any other way control the behavior and performance of the defendants, their agents, servants and/or employees; that in their hiring practices in the exercise of their police functions and their failure to enforce the laws of the State and City of New York is evidence of the negligence, carelessness and reckless lack of cautious regard for the rights of the public, including plaintiff; and that the defendants exhibited a lack of that degree of due

care which prudent and reasonable individuals would show in executing the duties of the defendants.

42. That the defendant **CITY OF NEW YORK**, its agents, servants and/or employees failed to hire, train, supervise, discipline or in any other way control the defendant officers in the exercise of their functions; that their failure to enforce the laws of the State of New York and the City of New York was and is carried out willfully, wantonly, maliciously and with such reckless disregard for the consequences so as to display a conscious disregard for the dangers of harm and injury to citizens of the State and City of New York, including plaintiff herein.

43. That the said prosecution and criminal charges and hearings instituted and procured by the defendants, their agents, servants and/or employees were unlawful and malicious and without any reasonable or probable cause whatsoever; that the commencement and/or continuation of the criminal proceedings by the defendants against the plaintiff was without probable cause with actual malice and terminated in favor of the plaintiff.

44. That on or about May 23, 2010, at approximately 3:50 a.m. of that day, while plaintiff was lawfully and properly in the vicinity of East 169th Street & Jerome Avenue, County of Bronx, City and State of New York, and at subsequent times thereafter, including but not limited to the 44th Precinct, Central Booking and at a detention cell at the Criminal Court Building, County of Bronx, City and State of New York, the defendants, their agents, servants and employees maliciously prosecuted and detained plaintiff **WILSON ROLON**, without any just right or grounds therefore.

45. That the plaintiff is and was wholly innocent, and was forced by the defendants to submit to court proceedings.

46. The defendants, their agents, servants and/or employees, falsely and maliciously and without probable cause or provocation charged the plaintiffs with Violation of Penal Law of the State of New York.

47. That the defendants, their agents, servants and/or employees acting in the performance of their employment and within the scope of their authority, testified falsely and withheld vital information before a Judge of the Criminal Court of the City of New York, County of Bronx.

48. That upon examination, the said charges were falsely and maliciously made. That the Judge of the Criminal Court of the City of New York, County of Bronx, dismissed said charges.

49. That the said prosecution and criminal charges and hearings were instituted and procured by the defendants, their agents, servants and/or employees unlawfully and maliciously and without any reasonable or probable cause whatsoever; that the commencement and/or continuation of the criminal proceedings by the defendants against the plaintiff was without probable cause.

50. That by reason of the aforesaid unlawful and malicious prosecution, the plaintiff was deprived of his liberty, was subjected to great indignity, humiliation, pain and great distress of mind and body and was held up to scorn and ridicule, was injured in his character and reputation, was prevented from attending his usual business and avocation, was injured in his reputation in the community and the said plaintiff has been otherwise damaged.

51. That at all times hereinafter mentioned, the defendant police officers were employed in their respective capacities by the defendant **CITY OF NEW YORK** and were acting under the color of their official capacity and their acts were performed under the color of the policies, statutes, ordinances, rules and regulations of the **CITY OF NEW YORK**.

52. That the defendants had a duty to use reasonable care in the stopping, detaining and arrest of plaintiff.

53. That the defendants had a duty to ensure plaintiff was safely stopped, detained and arrested.

54. Although defendants knew or should have known of the fact that this pattern of conduct was carried out by their agents, servants and/or employees, the defendant **CITY OF NEW YORK** has not taken any steps or made any efforts to halt this course of conduct, to make redress to the plaintiff or other citizens injured thereby, or to take any disciplinary action whatever against any of their employees or agents.

55. The unlawful and illegal conduct of the defendants, their agents, servants and/or employees and each of them, deprived plaintiff of the following rights, privileges and immunities secured to him by the Constitution of the United States and of the State of New York: The right of plaintiff to be secure in his person and effects against unreasonable search and seizure under the Fourth and Fourteenth Amendments to the Constitution of the United States; the right of plaintiff to be informed of the nature and cause of the accusation against him as secured to him under the Sixth and Fourteenth Amendments to the Constitution of the United States; and the right of plaintiffs not to be deprived of life, liberty or property without due process of law, and the right to the equal protection of the laws secured by the Fourteenth Amendment to the Constitution of the United States.

56. That the deprivation of plaintiff's constitutional rights was the result of the City of New York's custom and/or policy on using excessive force against innocents.

57. That the deprivation of plaintiff's constitutional rights was the result of the City of New York's custom and/or policy of unlawfully stopping and frisking citizens in the absence of any reasonable suspicion that said individuals were concealing weapons or contraband.

58. That the deprivation of plaintiff's constitutional rights was the result of the City of New York's custom and/or policy of arresting innocent persons in order to meet productivity goals.

59. That the deprivation of plaintiff's constitutional rights was the result of the City of New York's custom and/or policy of wrongfully arresting minority individuals.

60. That the deprivation of plaintiff's constitutional rights was the result of the City of New York's custom and/or policy of manufacturing evidence against individuals allegedly involved in assaults against police officers.

61. That the deprivation of plaintiff's constitutional rights was the result of the City of New York's custom and/or policy of assaulting, battering, falsely arresting and imprisoning individuals without probable cause or justification.

62. That the deprivation of plaintiff's constitutional rights was the result of the City of New York's custom and/or policy of failing to discipline officers for using excessive force.

63. That the deprivation of plaintiff's constitutional rights was the result of the City of New York's custom and/or policy of performing improper searches and seizures.

64. That the said customs and/or policies may be inferred from the existence of other similar civil rights actions that have been brought against The City of New York.

65. That the deprivation of plaintiff's Constitutional rights was the result of a custom and/or policy adopted by the CITY OF NEW YORK.

66. That the detaining of plaintiff without probable cause or justification was the result of customs and/or policies adopted by the CITY OF NEW YORK.

67. That the customs and/or policies adopted by defendant CITY OF NEW YORK exhibited a deliberate indifference to the constitutional rights of plaintiff.

68. That by reason of the foregoing, this plaintiffs were severely injured and damaged, rendered sick, sore, lame and disabled, sustained severe nervous shock and mental anguish, great physical pain and emotional upset, has suffered and continues to suffer serious and extreme mental and emotional anguish, distress and psychological damages and difficulties, some of which injuries are permanent in nature and duration, and plaintiffs will be permanently caused to suffer pain, inconvenience and other effects of such injuries; plaintiffs incurred and in the future will necessarily incur further hospital and/or medical expenses in an effort to be cured of said injuries; and plaintiffs have

suffered and in the future will necessarily suffer additional loss of time and earnings from employment; and plaintiffs will be unable to pursue the usual duties with the same degree of efficiency as prior to this occurrence, all to plaintiffs' great damage.

69. That on or about May 23, 2010, in violation of the rights, privileges and immunities guaranteed to them under the Fourteenth Amendment to the United States Constitution and under the color of State law, the defendants acted individually and in concert causing the plaintiff to have been injured and damaged in an amount exceeding the jurisdictional limit of this Court, to be determined upon the trial of this action.

**SECOND CAUSE OF ACTION:
(FALSE ARREST AND IMPRISONMENT OF
PLAINTIFF WILSON ROLON)**

70. Plaintiff, **WILSON ROLON**, repeats and realleges each and every allegation contained herein, as though the same were set forth at length.

71. On or about May 23, 2010, in the vicinity of East 169th Street & Jerome Avenue, County of Bronx, City and State of New York, the defendants, their agents, servants and/or employees wrongfully and falsely arrested, imprisoned and detained plaintiff **WILSON ROLON**, without any right or grounds therefore.

72. That on or about May 23, 2010, the defendants wrongfully and falsely accused the plaintiff **WILSON ROLON** with Violation of Penal Law of the State of New York.

73. That the said arrest and imprisonment was caused by the defendants, their agents, servants and/or employees without any warrant or other legal process and without authority of the law and without any reasonable cause or belief that the plaintiff, **WILSON ROLON** was in fact guilty of such crimes.

74. On or about May 23, 2010, the defendants and each of them acting individually and in concert and while on duty, arrested, detained and imprisoned the plaintiff even though the defendants knew or should have known that the plaintiff **WILSON ROLON** was wholly innocent of the criminal charges then and there filed against him.

75. While plaintiff was so engaged, as aforesaid, the defendants, their agents, servants and employees, wrongfully and unlawfully, against the plaintiff's wishes, without probable or reasonable cause, and on the sole charge, then made, charged that plaintiff violated Violation of Penal Law of the State of New York, arrested and imprisoned the plaintiff and with full force of arms, they forcibly and violently seized, assaulted and laid hold of and compelled them to go with the said defendant police officers to be detained and imprisoned at the 44th Precinct, County of Bronx, City and State of New York, and continuing to other places and times, including, but not limited to, Central Booking and in a detention cell located in the Criminal Courts Building, County of Bronx, where the plaintiff was further detained and imprisoned until such time as he was arraigned.

76. That at all times relevant hereto, the defendants owed a duty directly to plaintiff to conform their conduct to a standard established by law for the protection of plaintiff.

77. That at all times relevant hereto, the defendants failed to act, protect and safeguard the plaintiff.

78. That at all times relevant hereto, the defendants breached their duty owed directly to the plaintiff which endangered the plaintiff's physical safety.

79. That the defendants, their agents, servants and/or employees acting within the scope of their authority and within the scope of their employment, detained and imprisoned the plaintiff even though the defendants, their agents, servants and/or employees had the opportunity to know or should have known, that the matters

hereinbefore alleged, wrongfully, unlawfully and without a sufficient charge having been made against the plaintiff, directed that the plaintiff be searched and placed in confinement at said locations.

80. That the plaintiff was wholly innocent of the said criminal charges and did not contribute in any way to the conduct of the defendants, their agents, servants and/or employees and were forced by the defendants to submit to the aforesaid arrest and imprisonment thereto entirely against his will.

81. That as a result of the aforesaid accusations made by the defendants, their agents, servants and/or employees acting under their employment and within the scope of their authority, made falsely, publicly, wickedly and maliciously, the plaintiff was compelled to appear before a Judge of the Criminal Court of the City of New York, County of Bronx, to be arraigned.

82. That the defendants, their agents, servants and employees, as set forth on the aforementioned date, time and place, intended to confine the plaintiff; in that the plaintiff was conscious of the confinement; plaintiff did not consent to the confinement; and that the confinement was not otherwise privileged.

83. That by reason of the false arrest, imprisonment and detention of the plaintiff, plaintiff was subjected to great indignities, humiliation and ridicule, charged and prosecuted with various crimes, and greatly injured in his credit and circumstances and was then and there prevented and hindered from performing and transacting their necessary affairs and business and he was caused to suffer much pain in both mind and body, the loss of employment and the loss of employment opportunities.

84. That by reason of the foregoing, the plaintiff was severely injured and damaged, rendered sick, sore, lame and disabled, sustained severe nervous shock and mental anguish, great physical pain and emotional upset, have suffered and continue to suffer serious and extreme mental and emotional anguish, distress and psychological damages and difficulties, some of which injuries are permanent in nature and duration,

and plaintiff will be permanently caused to suffer pain, inconvenience and other effects of such injuries; plaintiff incurred and in the future will necessarily incur further hospital and/or medical expenses in an effort to be cured of said injuries; and plaintiff has suffered and in the future will necessarily suffer additional loss of time and earnings from employment; and plaintiff will be unable to pursue the usual duties with the same degree of efficiency as prior to this occurrence, all to plaintiff's great damage.

85. By reason of his false arrest and imprisonment, and the violation of the 24-hour arraignment rule, the plaintiffs have been damaged in an amount exceeding the jurisdictional limit of this Court, to be determined upon the trial of this action.

THIRDCAUSE OF ACTION:
(MALICIOUS PROSECUTION ON BEHALF OF
PLAINTIFF WILSON ROLON)

86. Plaintiff **WILSON ROLON**, repeats and realleges each and every allegation contained herein, as though the same were set forth at length herein.

87. That on or about May 23, 2010, at approximately 3:50 a.m. of that day, while plaintiff was lawfully and properly in the vicinity of East 169th Street & Jerome Avenue, County of Bronx, City and State of New York, and at subsequent times thereafter, including but not limited to the 44th Precinct, Central Booking and at a detention cell at the Criminal Court Building, County of Bronx, City and State of New York, the defendants, their agents, servants and employees maliciously prosecuted and detained plaintiff **WILSON ROLON**, without any just right or grounds therefore.

88. That the plaintiff was and is wholly innocent, and was forced by the defendants to submit to court proceedings.

89. That the defendants, their agents, servants and/or employees, falsely and maliciously and without probable cause or provocation charged the plaintiff with Violation of Penal Law of the State of New York.

90. That the defendants, their agents, servants and/or employees acting in the performance of their employment and within the scope of their authority, testified falsely and withheld vital information before a Judge of the Criminal Court of the City of New York, County of Bronx.

91. That upon examination, the said charges were falsely and maliciously made. That the Judge of the Criminal Court of the City of New York, County of Bronx, dismissed said charges.

92. That the said prosecution and criminal charges and hearings were instituted and procured by the defendants, their agents, servants and/or employees unlawfully and maliciously and without any reasonable or probable cause whatsoever; that the commencement and/or continuation of the criminal proceedings by the defendants against the plaintiff was without probable cause, with actual malice and was terminated in favor of the plaintiff.

93. That by reason of the aforesaid unlawful and malicious prosecution, the plaintiffs were deprived of their liberty, were subjected to great indignity, humiliation, pain and great distress of mind and body and were held up to scorn and ridicule, were injured in their character and reputation, were prevented from attending their usual business and vocation, were injured in their reputation in the community and the said plaintiffs have been otherwise damaged.

94. As a result of the aforesaid malicious prosecution, the plaintiff, **WILSON ROLON** has been damaged in an amount exceeding the jurisdictional limit of this Court, to be determined upon the trial of this action.

FOURTH CAUSE OF ACTION:
(ASSAULT AND BATTERY OF WILSON ROLON)

95. Plaintiff, **WILSON ROLON**, repeats and realleges each and every allegation contained herein, as though the same were set forth at length herein.

96. On or about May 23, 2010, in the vicinity of East 169th Street & Jerome Avenue, County of Bronx, City and State of New York, the plaintiff **WILSON ROLON** was assaulted and battered by the defendant police officers and/or others acting in concert with them.

97. The force used in the course of their arrests by the defendant Officers was excessive, unnecessary, unwarranted and violent.

98. As a result of the defendant officers' aforementioned assault and battery of the plaintiff **WILSON ROLON**, plaintiff has been damaged in an amount exceeding the jurisdictional limit of this Court to be determined in a trial of this action.

**FIFTH CAUSE OF ACTION:
(COMMON LAW NEGLIGENCE TOWARDS
PLAINTIFF WILSON ROLON)**

99. Plaintiff **WILSON ROLON**, repeats and realleges each and every allegation contained herein, as though the same were set forth at length herein.

100. The defendant, **CITY OF NEW YORK**, was careless and negligent in its operation, management, supervision and control of their Police Department; in not providing adequate training of defendant police officers while at the Police Academy; in their supervision of defendant police officers while assigned to precincts; in failing to provide adequate supervision of defendant police officers during their training at the Police Academy.

101. The defendant **P.O. HINES** was negligent in failing to use reasonable care in the detainment, confinement of plaintiff **WILSON ROLON** on or about May 23, 2010.

102. The defendant **P.O. "P.O. JOHN DOE #1"** was negligent in failing to use reasonable care in the detainment, confinement and prosecution of the plaintiff, **WILSON ROLON** on or about May 23, 2010.

103. The defendant P.O. **“P.O. JOHN DOE #2”** was negligent in failing to use reasonable care in the detainment, confinement and prosecution of the plaintiff, **WILSON ROLON** on or about May 23, 2010.

104. The defendant P.O. **“P.O. JOHN DOE #3”** was negligent in failing to use reasonable care in the detainment, confinement and prosecution of the plaintiff, **WILSON ROLON** on or about May 23, 2010.

105. That by reason of the foregoing, the plaintiff was severely injured and damaged, rendered sick, sore, lame and disabled, sustained severe nervous shock and mental anguish, great physical pain and emotional upset, has suffered and continues to suffer serious and extreme mental and emotional anguish, distress and psychological damages and difficulties, some of which injuries are permanent in nature and duration, and plaintiff will be permanently caused to suffer pain, inconvenience and other effects of such injuries; plaintiff incurred and in the future will necessarily incur further hospital and/or medical expenses in an effort to be cured of said injuries; and plaintiff has suffered and in the future will necessarily suffer additional loss of time and earnings from employment; and plaintiff will be unable to pursue the usual duties with the same degree of efficiency as prior to this occurrence, all to plaintiff's great damage.

106. By reason of the negligence of the defendants, the plaintiff **WILSON ROLON**, has been damaged in an amount exceeding the jurisdictional limit of this Court, to be determined upon the trial of this action.

**SIXTH CAUSE OF ACTION:
PLAINTIFF WILSON ROLON'VIOLATION OF RIGHT TO
BE FREE FROM UNREASONABLE SEARCHES
AND SEIZURES UNDER THE CONSTITUTION
OF THE STATE OF NEW YORK**

107. Plaintiff, **WILSON ROLON**, repeats and realleges each and every allegation contained herein as though the same were set forth at length herein.

108. On or about May 23, 2010, in the vicinity of East 169th Street & Jerome Avenue, County of Bronx, City and State of New York, in violation of the rights, privileges and immunities guaranteed to him under the Constitution of the State of New York, the plaintiff **WILSON ROLON**, was unlawfully searched and seized by the defendant police officers and/or others acting in concert with them, when said defendant police officers and/or others acting in concert with them, and each of them acting individually and in concert, while on duty, detained and searched the plaintiff **WILSON ROLON**, even though the defendants knew or should have known that the plaintiff was wholly innocent.

109. That by reason of the foregoing, the plaintiff was severely injured and damaged, rendered sick, sore, lame and disabled, sustained severe nervous shock and mental anguish, great physical pain and emotional upset, have suffered and continue to suffer serious and extreme mental and emotional anguish, distress and psychological damages and difficulties, some of which injuries are permanent in nature and duration, and plaintiff will be permanently caused to suffer pain, inconvenience and other effects of such injuries; plaintiff incurred and in the future will necessarily incur further hospital and/or medical expenses in an effort to be cured of said injuries; and plaintiff has suffered and in the future will necessarily suffer additional loss of time and earnings from employment; and plaintiff will be unable to pursue the usual duties with the same degree of efficiency as prior to this occurrence, all to plaintiff's great damage.

110. That by reason of his unlawful search and seizure, the plaintiff, **WILSON ROLON**, has been damaged in an amount exceeding the jurisdictional limits of this Court, to be determined upon the trial of this action.

WHEREFORE, plaintiffs demand judgment against the defendants on Each Cause of Action in amounts to be determined upon the trial of this action, together with interest and the costs and disbursements of this action.

Additionally, plaintiffs demand in respect of all Causes of Action, the additional total sum of **\$5,000,000.00** in punitive damages and attorney fees pursuant to 42 U.S.C. § 1988.

Dated: New York, New York
December 7, 2010

Yours, etc.

BURNS & HARRIS, ESQ.
Attorneys for Plaintiff

BY: 

ALISON R. KEENAN
233 Broadway, Suite 900
New York, NY 10279
212 393-1000

RE: WILSON ROLON

ATTORNEY VERIFICATION

ALISON R. KEENAN, ESQ., an attorney duly admitted to practice law in the Courts of the State of New York, shows:

I am the attorney for the plaintiff in the within action and have read the foregoing COMPLAINT the contents thereof; the same is true upon information and belief.

This verification is made by this affirmant and not by said plaintiff because said plaintiff reside(s) in a County other than the County wherein your affirmant maintains her office.

The grounds of affirmant's knowledge and belief are as follows: Conference with clients and notes and records contained in the file maintained in the regular course of business.

The undersigned affirms that the foregoing statements are true under the penalties of perjury.

Dated: New York, New York
December 7, 2010


ALISON R. KEENAN

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

Index #

-----X
WILSON ROLON

Plaintiff

Against

THE CITY OF NEW YORK, P.O. HINES (shield # unknown)
P.O. "JOHN DOE" #1 (Shield # Unknown),
P.O. "JOHN DOE" #2 (Shield # Unknown),
P.O. "JOHN DOE" #3 (Shield # Unknown)
(first and last names being fictitious
and unknown, persons intended being police officers and/or
personnel who were involved in subject incident)

Defendants
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**SUMMONS AND
VERIFIED COMPLAINT**

BURNS & HARRIS, ESQS.
Attorneys for Plaintiff
Office & P. O. Address
233 Broadway, Suite 900
New York, NY 10279
212 393-1000
Fax: 212 267-2110